

**IN THE SUPREME COURT OF FLORIDA
CASE NUMBER: SC2023-0415
Lower Tribunal Case: 1990-CF-0001**

EXECUTION SCHEDULED FOR April 12, 2023, at 6:00P.M.

LOUIS B. GASKIN,
APPELLANT,

v.

STATE OF FLORIDA,
APPELLEE.

_____/

APPELLANT'S MOTION FOR STAY OF EXECUTION

COMES NOW the Appellant/Petitioner, Louis B. Gaskin, by and through undersigned counsel and respectfully moves this Court to enter a stay of his scheduled execution, currently set for April 12, 2023. Appellant states:

1. Mr. Gaskin is under a sentence of death. He is currently scheduled to be executed on Wednesday, April 12, 2023.

2. Concurrent with this motion, Mr. Gaskin has filed an initial brief in this Court on his appeal from the Flagler County Circuit Court's order summarily denying his motion for postconviction relief. This case presents important constitutional issues which deserve to be fully addressed by this Court free from

the constraints of a warrant, including challenges to his death sentence and execution due to evolving standards of decency, the consensus that death sentences must be based upon a unanimous jury vote, and other claims raised under the Sixth, Eighth, and Fourteenth Amendments.

3. Also concurrent with this motion, Mr. Gaskin has filed a Petition for Writ of Habeas Corpus raises the claim that the non-unanimous jury that recommended a death sentence by eight-to-four weighed an invalid aggravating factor in making that determination, thus violating the Eighth and Fourteenth Amendments.

4. A stay of execution is appropriate “when there are ‘substantial grounds upon which relief might be granted.’” *Chavez v. State*, 132 So. 3d 826, 832 (Fla. 2014) (quoting *Buenoano v. State*, 708 So. 2d 941, 951 (Fla. 1998)).

5. This Court may enter a limited stay to meaningfully consider complex legal claims even if, on first appearance, the possibility of relief appears remote. See *King v. Moore*, 824 So. 2d 127, 128 (Fla. 2002) (Harding, J., concurring) (agreeing with the issuance of a stay due to the “possibility” of merit, despite prior

actions by the United States Supreme Court “seemingly send[ing] a clear message” that no relief was due).

6. The period set by the instant warrant is inadequate for review of the meritorious issues presented. Stays are particularly appropriate where, as in Mr. Gaskin’s case, a warrant is set on a short timeframe. *See Jimenez v. State*, No. SC18-1321 (Fla. 2018) (granting stay of execution on a 27-day warrant and modifying *nunc pro tunc* the expedited post-warrant scheduling order, without making any findings of substantiality on any issue); *see also Jimenez v. State*, 265 So. 3d 462, 493 (Fla. 2018) (Pariente, J., concurring) (explaining that the “extremely short warrant period” meant that “[t]he postconviction court and Jimenez’s attorneys were forced to race against the clock in reviewing and presenting all of Jimenez’s claims, respectively” and that without a stay there would be “inadequate time to thoroughly review his claims.”).

7. The issues in this litigation require appellate review that is not truncated by the exigencies of an imminent execution. A stay of execution should be granted.

CERTIFICATE OF SERVICE

We hereby certify that a copy of the above has been furnished to opposing counsel by filing with the e-portal, and by e-mail which will serve a copy of this brief on all counsel of record: Assistant State Attorney Rosemary Calhoun, at CalhounR@sao7.org and PaughN@sao7.org; Assistant Attorney General Patrick Bobek at Patrick.Bobek@myfloridalegal.com and capapp@myfloridalegal.com; Assistant Attorney General Doris Meacham, at Doris.Meacham@myfloridalegal.com, and the Florida Supreme Court, at warrant@flcourts.org, on this 27th day of March, 2023.

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